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List of issues in relation to the sixth periodic report of Mongolia

Addendum

Replies of Mongolia to the list of issues*

[Date received: 27 February 2017]

* The present document is being issued without formal editing.

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Please recycle

1. Mongolia acceded to the Second Optional Protocol of the ICCPR in 2012 and abolished death penalty in the Criminal Code which came into force on September 1st, 2016. Hence the details regarding the circumstances of the accused previously sentenced to death and actions taken to ensure their rights:

2. As of January 2017, 34 prisoners, whose death sentences have been replaced by 30-year imprisonment, serve their sentences by a solitary confinement in accordance with Article 109 of Law on Court Decisions Enforcement.

3. Rule 9 of the United Nations Standard Minimum Rules for the Treatment of Prisoners regarding accommodation arrangement requirement approved in 1955 specifies as "Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room" has been ensured by the national legislation.

4. Accommodations of these prisoners have windows and constructed in a way that they can allow the entrance of fresh air whether there is artificial ventilation or not; and artificial lights are provided sufficient for the prisoners to read or work without injury to eyesight. Every room has sanitary installations. Also every prisoner is allowed to be in the open air at least for one hour daily. Nutritional values of daily meals are assessed by professional organizations to ensure daily intake of at least 2900 k/calories.

Actions taken to improve conditions of crowded prison facilities or facilities with bad living conditions; and measures to complete construction of new prison facilities in Dornod, Uvs and Dundgovi provinces:

5. Seventeen prison facilities were renovated to comply with the "Security Standards for Prison Facilities" in order to improve efficacy of imprisonments, ensure prisoners' natural rights, and reduce workload of prison staff; prison cells were renovated to comply with legal requirements of lighting, ventilation, humidity control, and minimum floor space, and cafeterias, educational facilities and libraries were refurbished.

6. The "Exemplary Model for Food Production and Services for Suspects, Convicts, and Prisoners" has been approved and enforced to comply with Rule 20 of the United Nations Standard Minimum Rules for the Treatment of Prisoners by increasing variety of meal types and providing dietary and vegetarian meals to respect prisoners' health and private needs.

7. Prison facilities have the capacity of accommodating 5838 prisoners and as of January 4, 2017, totally 4551 of inmates are serving time in them. Currently there are no prison facilities or detention centers which exceed the capacity.

8. As a result of initiatives on ensuring natural/basic human rights carried out by the General Authority of Court Decisions Enforcement, 18 of 26 prison facilities were rebuilt, and other 7 were renovated to meet the standards. Ten new prison facilities were built in last 2 years: 6 in 2015 and 4 in 2016.

9. Consequently, requirements related to prison rooms and cells specified in Rule 9 of the United Nations Standard Minimum Rules for the Treatment of Prisoners have been fully met and the floor space per person has been increased from 2.5 square meters/person to 3-3.5 square meters/person, natural lighting and ventilation requirements were met as per specifications of the "Law on Enforcement of Decisions on Arresting or Detaining Suspects and Convicts".

10. Constructions of the prison facilities in Dornod, Uvs, and Dundgovi provinces mentioned in the list of issues, were commenced in 2014 and completed in November 2015; each of Dornod, Uvs and Dundgovi facilities has the capacity of accommodating 100, 85, and 54 inmates respectively; 11-28 inmates are serving time in each of them respectively as of January 4, 2017.

Measures taken to fully separate young prisoners' facilities from adults:

11. Articles regarding keeping minors separate from adults in the Law on Court Decisions Enforcement (Article 110) and the Law on Enforcement of Decisions on Arresting or Detaining Suspects and Convicts (Article 31) have been effectually observed and no cases of keeping minors with adults have been identified.

12. Every rural facility has a room for keeping minors and adults have been fully separated with no possibility of interacting with minors.

13. One aisle of every prison facility in the capital city has been arranged as the section for minors to keep them separate from adults; and as of January 4, 2017, there are 18 male and 3 female minors serving time in prison.

Legalization of the right to have conscientious objections to military service and the practice of universal military conscription:

14. As Article 17 of the Constitution of Mongolia states that "Citizens of Mongolia, while upholding justice and humanity, shall fulfill in good faith the duty to defend the motherland and serve in the army according to law", hence military conscription is a legally obligated duty for a citizen of Mongolia.

15. However, According to the paragraph 29.2 of Article 29 of the "Law on Conscription" states that "Military conscription can be substituted by alternative services due to religious, ethical, or other reasons specified by law" ensuring the right of a citizen to substitute military conscription by alternative services. For example, Article 7 of the Procedures on Alternative Conscription, approved by Government Resolution # 49 of 2008, specifies as "A citizen shall be eligible for an alternative conscription in the following cases:

(a) If he is an official disciple of a temple or religious institution;

(b) The conscription bureau provided a description as being not eligible for genuine military conscription due to religious or ethical reasons.

Term to serve an alternative conscription must be the same as military conscription; and reasons for term discrepancy if there is any:

16. The paragraph 7.1 of Article 7 of the Law on Military Conscription legalizes as the "Term for compulsory military conscription shall be 12 months", while paragraph 30.2, Article 30 specifies as "Term for alternative military conscription shall be 24 months". The relations for discrepancies between the compulsory military conscription and alternative conscription have been described in the paragraph 30.4, Article 30 of the same law.

17. Information regarding corruption cases in investigation by the judicial system and regarding the investigation of cases registered as the judge or court trial have been tampered:

18. In 2016, 5 judges and 1 judicial panel reported the cases of interferences in the court proceedings by others. Two people were charged with responsibility based on the report, and 4 cases were dismissed as not being tampering efforts.

19. Provincial courts of several aimags were abolished, so citizens' rights to access to the judicial system can be hindered due to geographical locations; limited possibilities of legal aid centers in rural areas are worrying. Response on this matter:

20. The Constitutional Court of Mongolia annulled the relevant articles of the Law on Establishing Courts on the grounds that the articles were in breach of the Constitution. Accordingly, amendments were made to the Law on Establishing Courts and appellate courts and first instance courts of the capital city and district courts were set up respectively on June 1, 2016. Hence, no breach of citizens' rights to appeal to the court due to geographical distance.

21. As the structure and number of staff members of the Legal Aid Center have been approved by joint order of the Minister for Justice and Home Affairs and Minister for Finance, the Center has been working in line with governmental function in 8 districts, 21 provinces, and in some soums with higher population densities through its 31 branches and

72 staff members. In 2016, the Center worked to protect the legal rights and interests of citizens, who sought for legal aid: 6631 citizens were provided legal counselling, 2749 accused of 2482 cases were provided advocacy and legal representation, of which 1439 cases were brought to the court, while 264 were settled by previous stage of the court.

22. It has been required to enhance the scope and availability of the legal services provided by the Legal Aid center, and hence we are working to improve the legal environment to avail such possibilities.

Progress on providing courts with facilities equipped with necessary resources:

23. The Judicial General Council of Mongolia has been implementing step by step actions to organize investments in the judiciary in optimized and effective ways, to renovate courtrooms and to furnish with equipment, devices, and furniture necessary for effectively conducting judicial proceedings. All courts of Mongolia have been provided with necessary courtrooms, furniture and equipment. However, a dedicated courthouse issue has not been resolved so far. Currently 115 courts have been operating in 46 buildings in Mongolia; due to state budget restraints, some are coexisting in a same building or renting a space. Also there are 15 courthouses in aged buildings between 26-40 years. Facilities provision and conditions for serving citizens are still not satisfactory especially for civil trial courts in the capital city.

Actions to set up a comprehensive system for investigating and trying crimes committed by minors, especially a juvenile court:

24. Currently, there is no specialized juvenile court for administering crimes committed by juveniles in Mongolia. We assume that such courts must be set up in the future.

25. Since the dissolution of the Investigative Unit at the General Prosecutor's Office of Mongolia, the Investigative Unit of the General Police Department and Anti-Corruption Agency have been in charge of investigating torture or inhuman treatment crimes of employees of law enforcement agencies; and offenders remain irreproachable. So please provide the number of registered torture crimes; number of investigated and prosecuted torture crimes; number of delinquents and penalties inflicted; forms and amount of compensations to victims since 2012:

26. Since the dissolution of the Investigative Unit under the General Prosecutor's Office of Mongolia in 2014, the Investigative Unit of the General Police Department received 45 complaints related to torture or inhuman treatment during 2014-2016. Criminal proceedings were initiated for 5 complaints in accordance with Article 251 of the Criminal Code; and were transferred to the prosecutors with a suggestion to dismiss.

			Complaint resolving	
№	*Year*	*Complaints received*	*Criminal cases initiated*	*Refused to initiate a criminal case*
1.	2014	3	3	
2.	2015	21	1	20
3.	2016	21	1	20
Total		**45**	**5**	**40**

27. Measures taken on the following issues: (a) the number of people arrested without warrant; (b) incidents, where the arrested has not been informed about his/her rights and has not been able to exercise his/her right to counsel; and difficulties in providing free of charge legal aids to people without financial capabilities; (c) arresting people for a longer period than permitted by the law; (d) reports on the use of prohibition of family contact as a means to obtain confessions; (e) registered cases of intimidation or deceit of the suspects and their family members by constables or procurers; and seizing and prevention methods other than the arrest and their usage in practice:

28. According to the report provided by Pre-trial detention center # 461 under the General Authority of Court Decisions Enforcement, in 2016, 1141 people (male 1002, female 72, minors 67) have been detained in the above center in accordance with paragraph 59.5 of the Article 59 of the Criminal Procedure Law. Detained people are allowed to receive visits by their family members and receive food through family or friends at their request, permissions for visits are being granted, and family members are meeting with them in accordance with the internal rules of the detention center. No complaints were reported on cases, which constables refused to give permission for a family visit, or used such disapprovals for obtaining confessions. The Head of the Inquiry and Investigative units has been monitoring detention centers in accordance with the Rules on Operations of Police Agency.

29. In 2016, 1178 people were released on promise not to leave the country, 1346 people were released on bail, 1 person was given under control of military unit, 2 were seized property as bail security.

Measures taken to improve conditions of a detention facility located in Denjiin Myanga (overcrowded and hard living conditions):

30. People who have been detained to custody due to administrative cases or subjugated to compulsory alcohol treatment are now detained and supervised by the Detention Center under the General Policy Agency. In 2015 and 2016, 1839 and 4513 people have been detained respectively in the detention center, which is translated into 100 person per day.

31. The condition of the detention facility does not fully meet the safety requirements as the building was erected in 1962, its structural beams have been deformed; and the Professional Inspection Agency assessed it as being unsafe and released evaluation statements several times.

32. The General Policy Agency renovated the building in 2016 with its own resources, however, a new building is required in the future and now we are working to solve issues related to the budget and financing.

33. Information regarding the measures on fighting human trafficking crimes: (a) creating an official inspection process to identify and provide assistance to victims of human trafficking; (b) ensuring conditions to prevent victims from convictions for illegal activities engaged due to being trafficked; (c) providing enough funds for protection centers run by government or non-governmental organizations; improving security and provide services and assistances to other victims; (d) Organizing specific training on criminal code, especially Article 113 of the Code; carrying out inspections of human trafficking crimes in a due manner and prosecuting criminals duly; Details on the numbers of registered, inspected, prosecuted human trafficking crimes, number of prosecuted criminals and amount of compensations given to victims:

34. National action plan against human trafficking is on the process of the development. In 2016, repatriation of 4 victims of human trafficking from the Peoples Republic of China back to Mongolia has been arranged in collaboration with the Consular Section of the Ministry of Foreign Affairs; warnings and public awareness building activities have been carried out with participation of the UB Railway Station, Chinggis Khaan International Airport, General State Registration Agency, National Legal Institute, and the media. NGO's such as the Gender Equality Center and Unbound, police organizations and officers collaborated together to identify high risk groups for human trafficking and collect necessary data. For instance, during November 15-18, 2016, relevant officers of criminal and investigative agencies worked in border towns Zamiin-Uud and Erlian, PRC, studied local conditions around border ports, and exchanged opinions on the state of human trafficking, improvement of further cooperation and prevention activities.

35. Two victims of human trafficking were provided service: one stayed for 3 days in the "Temporary prevention center" under the UB Police Department and the other stayed for 5 days in the victim rehab center of the Gender Equality Center. They were provided first aid and legal assistance.

36. The Police revealed 4 crimes of 7 accomplices with 18 victims, which have been subjugated to sexual exploitation in Malaysia, Turkey, Erlian, Hainan, Manchuria, and Guangzhou cities of the PRC, and in sauna and massage parlors in Ulaanbaatar, namely around the vicinity of the Sapporo, Ministry of Agriculture and Ulaanbaatar Hotel.

37. From this 1 was convicted; 1 was dismissed; and 2 are still in investigation. Although identification of victims and witnesses of a human trafficking crime and repatriation of victims have been restricted by difficulty in terms of time, financial resources, and other factors, recommendations to increase participation of NGO's, foreign diplomatic missions have been submitted to the relevant authorities.

38. Capacity building activities of police officers in border port areas on combating human trafficking crimes and training workshops for police agents under the titles of "Identification of Human Trafficking Crime", "Detection of Human Trafficking Crime", and "Human Trafficking" have been organized in collaboration with the Ministry of Justice and Home Affairs, Embassy of the USA, National Security Center, international migration studies organization "The Warnath Group", and Gender Equality Center respectively.

39. Peaceful demonstration of LGBT people on August 28 and September 6, 2015 on equality awareness and pride days have been prohibited, thus their rights were breached. Details about authorities' prohibition of peaceful demonstration on Chinggis Square and expelling by force from the square on August 28-29, 2015:

40. "LGBT" NGO has been organizing a "March for Equality" for protecting rights of the sexual minority; lesbians, gays, bisexuals, and trans-genders for the 3rd time. For the event on August 28-29, 2015, the Public Administrative Management Department of the Governor's Office of Ulaanbaatar granted a permission to "organize a demonstration to the Chinggis Square" by its official letter ref.# 04/2630 of 2015 and the demonstration around the Chinggis Square has not been registered in accordance with official letter ref. # 2/2543 by the Governor of Sukhbaatar district.

41. "LGBT" NGO had made a claim to the administrative first instance court of Capital City on the grounds that act ref.#2/2543 by the Vice Governor of Sukhbaatar district dated August 8, 2015; the verbal statement on prohibiting an opening ceremony for the "Equality and Pride Days" on the Chinggis Square by the city administrative officials; use of physical force by Ulaanbaatar city police and Chingeltei district officials on 30 people to halt their march on Chinggis square breached their rights to express opinions in peaceful manners, promote human rights, distribute information, and not being discriminated and lead to the violation of paragraph 70.2.2, Article 70 of the Administrative Procedure law; and also contested for the validity of the act issued by the administrative organization in accordance with paragraph 70.2.3 of the Administrative Procedure law.

42. The claims of the "LGBT" NGO has been entirely dismissed by the Court order # 0872, dated December 10, 2015, in accordance with sub-paragraphs 4 and 6 of the paragraph 1 of Article 7; paragraph 1 of the Article 9; and paragraph 1 and 3 of Article 13 of the Procedures on Organizing Demonstrations and Assembly and paragraph 3.2 of the Article 3 of the Law on Government Palace of Mongolia. The police operations were deemed as rightful.

43. There have been extensive discrimination and violence based on sexual or gender orientation. Offenders remain uncharged due to the lack of reporting of discrimination and insult of LGBT people, and infliction of bodily injuries to LGBT people by constables, families and relatives of LGBT people; out of fear of reporting domestic violence; and where complaints are filed authorized organizations fail to register and investigate. Measures taken on that matter:

44. Emergency hotline 102 of the Information and Emergency Management Center, under General Police Agency has been receiving calls regarding crimes and administrative offences from everyone without discrimination — citizens and organizations alike and have been dealing with complaints and reports on a timely manner.

45. Domestic and sexual violence against women have been widespread, hence please provide details on actions taken to: (a) raise knowledge and awareness on women's rights, support current protection mechanisms, namely, arresting and reporting of violence; (b)

create sufficient protection facilities run by state organizations, provide service and support to other victims; (c) investigate and charge offenders; and rehabilitate victims and results achieved. Also please provide the number of registered domestic violence crimes, number of investigated crimes, type of punishments prosecuted, and rehabilitations provided to victims:

46. In 2016, 16049 calls related to child and domestic violence were made to the Police Emergency hotline 102, which constitutes 2.3 percent of the total calls. The Temporary Shelter and special hotline 107 have been promoted in order to raise public awareness on the prevention from domestic violence and increase the effectiveness of activities prevent from domestic violence and terminate such types of crimes, as a result, in 2016, the number of citizens made call to the hotline and asked for consultations increased by 15 percent compared to the previous year. In 2016, 1449 crimes of domestic violence were registered nationwide, which is an increase by 93 crimes or by 6.9 percent compared to the data of the previous year.

47. Please report on measures taken to address and punish effectively violence against, and abuse of children; and respond to reports that corporal punishment of children in home settings is common despite its prohibition by law:

48. A revised law against domestic violence has been approved by the State Great Khural on December 22, 2016, and been in force since February 1, 2017. Sixty nine children became victims to crimes of domestic violence during the year, which indicates a decrease by 9.2 percent compared to the previous year. Forty children were injured due to such types of crimes; of which 22 or 55 percent were girls. Cooperation by the General Police Agency and NGO's and entities operating on prevention of domestic violence proves effective for the prevention of such types of crimes and violations. The Temporary Shelter hosted 268 people (2 male adults, 96 female adults, 82 male children, and 88 female children) in 2016, and provided protection, medical first aid, legal and psychological assistance and consultation.

49. Regarding measures taken to eradicate dominant stereotyping of male and female people's roles and responsibilities in the media:

50. The Government Medium Term Strategy and Plan on Implementing the Law on Gender Equality has been approved by Government Resolution #34 and now being implemented. This strategic document states 5 objectives in total. Objective# 4 specifies the measures on "Developing a gender supportive official and lifelong public education system and culture and organizing a nationwide awareness and promotion campaign". Within the scope of the objective, the following activities have been implemented: firstly, activities to develop official and lifelong learning education contents that are more supportive of gender equality; secondly, activities to increase public awareness on gender equality and install more gender sensitive attitudes in all public spheres; and thirdly, activities to promote distribution of more gender sensitive information to the public by television, radio, news, journals, and online media.

51. Efforts regarding effectively fighting the child labor, especially in dangerous and toxic settings such as the traditional horse-race and mining; and effectively punishing child exploitation:

52. Article 16.10.1 of the new Criminal Code, which have been revised and approved in 2015, classifies the employment of children in intolerable labor as crime and punishments were specified. The Code designates to dedicate a specific chapter in the Law on Supporting Employment regarding the preparation of children, who dropped out of school for employment.

53. The List of Work Positions Prohibited Employing juvenile approved by Order A/36 by the Minister of Labor dated February 8, 2016 includes engagement of underage persons in riding race horses between November 11 and May 1 of every year are prohibited. However, there still remains no labor regulation for children who performs circus or traditional art performance. The List also prohibits employment of children in places which operates at night time or serve alcohols.

54. According to the statistics of the General Authority to Court Decision Enforcement, in 2016, one person was convicted of child slavery, 65 people were convicted of sexual exploitation, using a child in prostitution or child sexual abuse crimes, and 9 people were convicted of exploitation of children in illegal activities.

55. Practical application of the Covenant by national courts and specific trainings for prosecutors, judges and lawyers.

56. No incidents recorded regarding the application of provisions of the Covenant in domestic legal system especially by national courts.

57. The Government of Mongolia organized series of trainings on subjects such as International Human Rights, Domestic Violence and Torture for lawyers and law enforcement officers in collaboration with the National Lawyers' Association, National Human Rights Commission, National Legal Institute and other non-government organizations. Police Academy of the University of the Law Enforcement has launched an online course "Human rights based approach" for the officers of the affiliate agencies of the Ministry of Justice. University of the Law Enforcement developed "Human Rights" course as one of its mandatory courses with the help of National Human rights Commission and total of 128 credit hours of seminars and lectures have been taught for over 200 cadets during the first semester of academic year 2016-2017.

58. Status of the draft law aimed at expanding the mandate of National Human Rights Commission.

59. The draft law of the National Human Rights Commission is currently under formulation and scheduled to be submitted to the Parliament of Mongolia in 2018.

Anti-discrimination legislation

60. In accordance with the Article 14, paragraph 14.1 of the Criminal Law, adopted in 2015, any acts of discrimination based on nationality, occupation, religious belief, opinion, education, sexual orientation or medical conditions is prohibited and any such acts of crime will sentenced for up to one year of imprisonment.